


REPORT

DATE: April 6, 2006

TO: Administration Committee and Regional Council

FROM: Lambertus H. Becker, Interim CFO, (213) 236-1804, becker@scag.ca.gov

SUBJECT: Internal Audit Appeal Procedure

EXECUTIVE DIRECTOR'S APPROVAL: 

RECOMMENDED ACTION:

Approve the recommended Internal Audit Appeal Procedure.

SUMMARY:

There is currently no procedure in place to appeal findings by SCAG's Internal Auditor. The attached procedure describes the criteria and timeframes to appeal findings by SCAG's Internal Auditor.

BACKGROUND:

SCAG staff has been working with the Audit Committee over the past few months to develop an appeal process. This procedure provides that appeals may be considered under either of two conditions: 1) new information is provided that was not available at the time of the field work or during the drafting of the audit; and/or, 2) the interpretation and/or application of the rules and regulations is called into question.

After receipt of the final audit report the audited agency has thirty (30) calendar days to notify SCAG's Chief Financial Officer that they plan to appeal (provision is made for any agency that has had an audit completed prior to adoption of the procedure by the Regional Council). The appeal must be filed within forty-five (45) calendar days of the date of release of the audit by SCAG. The CFO will then convene the Appeal Panel which has thirty (30) calendar days to review the appeal and make a determination. The Appeal Panel shall consist of three (3) members: 1) the General Counsel of SCAG (or other outside counsel); 2) an external auditing firm with knowledge of federal rules and regulations; 3) SCAG's Deputy Executive Director.

If the appeal is upheld the audit report will be amended. If the appeal is denied the agency will have thirty (30) calendar days from the date the final determination is made by the Appeal Panel to either make the payment to SCAG for any disallowed or to agree to a plan of repayment.

It is important to note that SCAG does not benefit in any manner by findings of "disallowed" costs discovered in these audits. Any funds recovered by SCAG are returned to the agency, either federal or state, that originally provided the funding. SCAG conducts audits of the subregional Overall Work Program (OWP) activities as part of its fiduciary responsibilities as the recipient of federal and state funds.

At the request of the Audit Committee we discussed the draft appeal procedure with the Subregional Coordinators and submitted a draft of this appeal procedure to the directors of each subregion, to the

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Caltrans office of Audits and Investigations, and to the local office of the Federal Highways Administration for their comment and input. We received comments from Caltrans and their input has been included in this procedure.

FISCAL IMPACT:

The funding for SCAG's Internal Audit activities is included in the OWP budget. The funding for the costs of the Appeal Panel has not been specifically budgeted and, if needed, will come from contingency funds included in the Indirect Cost budget.

Attachment

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Internal Audit Appeal Procedure

Background

The Southern California Association of Governments (SCAG) is a recipient of Federal, State and local funds. As recipient of these monies SCAG is subject to numerous regulations and conditions related to the expenditure of those funds and has a fiduciary responsibility to insure that these monies are spent in an appropriate manner. To insure that SCAG complies with all applicable rules and regulations an Internal Audit function was created. This resulted in the establishment of an Audit Committee composed of members of SCAG's Regional Council and the hiring of an Internal Auditor.

The duties of the Internal Auditor include compliance activities related to SCAG's internal activities. Additional duties include conducting "preaward" audits of vendors for contracts that exceed \$250,000 and conducting audits of entities that receive funds through SCAG.

The normal process for an audit of an outside agency (e.g. a subregion) would generally include: a) Notification to the agency about to be audited and agreement to a date to begin the audit; b) field work by the auditor; c) preparation of the draft audit report and distribution to the agency being audited; d) a thirty (30) calendar day period to review and respond to the draft audit by the agency being audited; e) a fourteen (14) calendar day period for the auditor to complete the audit and submit it to the agency being audited and to the SCAG Audit Committee. These dates are general guidelines and may be adjusted with mutual concurrence of the parties involved.

If the agency being audited disagrees with the findings contained in the final audit report they may appeal these findings under limited conditions.

Section 1 - Basis for Appeal

An audit will be considered for appeal under two limited conditions. These conditions are: 1) the audited agency can present new information that was not available at the time of the field work or during the drafting of the audit; and/or, 2) the interpretation and/or application of the rules or regulations is called into question.

It is not the intent of this policy to allow audited agencies the ability to appeal audit findings by merely resubmitting material that had already been considered by the auditor. If the appeal is based on an interpretation of the rules and regulations the appropriate rules and regulations should accompany the appeal and an explanation should also be enclosed explaining the basis for the appeal.

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Internal Audit Appeal Procedure

Section 2 - Appeal Panel

The appeal panel will consist of three members: 1) the General Counsel of SCAG (or other outside counsel); 2) the Deputy Executive Director of SCAG; and, 3) an external auditing firm with knowledge of federal rules and regulations.

Section 3 - Appeal Process

Once an audited agency has received the final audit report from SCAG's Internal Auditor they have thirty (30) calendar days to notify the SCAG Chief Financial Officer (CFO) by letter that they plan to appeal.* The appeal must be filed within forty-five (45) calendar days of the date of the release of the audit by SCAG. The CFO will then convene the Appeal Panel which has thirty (30) calendar days to review the appeal and make its determination.

The Continuing Cooperative Agreements with the subregions indicate that the subregions have thirty (30) calendar days to pay any disallowed costs. During the appeal process the payment of any disallowed costs will be suspended until such time that the appeal is decided. Submittal dates may be adjusted based on mutual consent of the parties.

If the appeal is upheld the audit report from SCAG's Internal Auditor will be amended. If the SCAG Appeal Panel determines that findings of disallowed costs are appropriate the subregion will have thirty (30) calendar days from the date that the final determination is made to either make payment to SCAG for those disallowed costs or to agree to a plan of repayment (if permitted by Caltrans and/or FHWA).

* Any subregion that has had an audit completed prior to adoption of this procedure will have thirty (30) calendar days from the date of adoption of this procedure by the Regional Council to appeal findings in their audit in accordance with the timeframes established in Section 3.